

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JOHN DAVID KUEHNE, JR.,

Case No. 3:03-cr-063
also Civil Case No. 3:10-cv-379

Petitioner,

-v-

Judge Thomas M. Rose
Magistrate Judge Sharon L. Ovington

UNITED STATES OF AMERICA,

Respondent.

**ENTRY AND ORDER GRANTING KUEHNE'S MOTION TO EXCEED
THE PAGE LIMITATION (Doc. #361); OVERRULING KUEHNE'S
OBJECTIONS (Doc. #362) TO THE MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATIONS, ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (Doc. #353) IN ITS ENTIRETY;
DISMISSING KUEHNE'S MOTION TO VACATE, SET ASIDE OR
CORRECT SENTENCE (Doc. #326) WITH PREJUDICE; DENYING
KUEHNE'S MOTIONS FOR EVIDENTIARY HEARING (Doc. #348) AND
FOR APPOINTMENT OF COUNSEL (Doc. #349) AND TERMINATING
THIS CIVIL MATTER**

Pro se Petitioner John David Kuehne, Jr. ("Kuehne") brought an action pursuant to 28 U.S.C. § 2255, to vacate, set aside or correct sentence. (Doc. # 326.) Kuehne also requested an evidentiary hearing on this motion (doc. #348) and requested appointment of counsel (doc. #349).

On August 8, 2011, Magistrate Judge Sharon L. Ovington issued a Report and Recommendations regarding these three pending motions. Kuehne objected¹ and the time has run and the United States did not respond to Kuehne's Objections. Kuehne's objections are,

¹Kuehne filed a motion to exceed the page limitation for his Objections (doc. #361) along with his Objections. The motion to exceed the page limitations is granted and the Court will consider Kuehne's seven-page Objection and sixty-seven page Memorandum In Support thereof.

therefore, ripe for decision.

The District Judge has reviewed the findings of Magistrate Judge Ovington. The District Judge has also made a de novo review of the record in this case, including Kuehne's seven-page Objection and sixty-seven page Memorandum In Support thereof, pursuant to 28 U.S.C. § 636(b) and Fed.R.Civ.P. 72(b). Upon consideration of the foregoing, the Court finds that Kuehne's Objections to the Report and Recommendations (doc. #362) are not well-taken and they are hereby OVERRULED.

The Magistrate Judge's Report and Recommendations is ADOPTED in its entirety. Kuehne's Motion To Vacate, Set Aside Or Correct Sentence pursuant to 28 U.S.C. §2255 is dismissed with prejudice. Also, Kuehne's Motion for an Evidentiary Hearing (doc. #348) and Motion for Appointment of Counsel (doc. #349) are OVERRULED. Finally, the captioned civil cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this 14th day of November, 2011.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
John David Kuehne, Jr. at his last address of record